

WILLMAR CITY COUNCIL PROCEEDINGS
BOARD ROOM
HEALTH AND HUMAN SERVICES BUILDING
WILLMAR MINNESOTA
ALSO AVAILABLE BY ELECTRONIC MEANS FOR REMOTE COUNCIL MEMBERS

March 20, 2023
6:30 p.m.

The regular meeting of the Willmar City Council was called to order by Mayor Douglas Reese. Members present on a roll call were Mayor Douglas Reese, Council Members Justin Ask, Audrey Nelsen, Vicki Davis, Carl Shuldes, Michael O'Brien, Thomas Butterfield, Julie Asmus, and Rick Fagerlie. Present 9, Absent 0.

Also present were City Administrator Leslie Valiant, City Operations Director Kyle Box, Police Chief Jim Felt, Finance Director Steve Okins, Parks and Recreation Director Rob Baumgarn, Planning and Development Services Director Justice Walker, Public Works Director Gary Manzer, Human Resources Director LuAnn Sietsema, City Clerk Judy Thompson, and City Attorney Robert Scott.

There were no additions or deletions to the agenda.

Council Member Ask moved to approve the agenda. Council Member Fagerlie seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

City Clerk Thompson reviewed the consent agenda.

- A. City Council Minutes - March 6, 2023
- B. Willmar Municipal Utilities Commission Minutes - March 13, 2023
- C. Willmar Bike Leadership Team Meeting Minutes - March 15, 2023
- D. Willmar Planning Commission Minutes - March 1, 2023
- E. Accounts Payable Report, 03-01-23 thru 03-14-23
- ~~F. Liquor License Renewals~~
- G. **Resolution No. 2023-045 Advertisement Agreement with Willmar Baseball Association**
- H. **Resolution No. 2023-046 Advertisement Agreement with Willmar Softball Association**
- I. **Resolution No. 2023-047 Renewal of a Master Joint Powers Agreement with the State of Minnesota.**
- J. **Resolution No. 2023-048 Affirm a Potentially Dangerous Dog**

Information:

- K. Building Report February 2023
- L. Police Commission Appointment of Lilbon Clark
- M. Airport Commission Appointment of David Frey

Council Member Ask offered a motion to approve the consent agenda. Council Member Nelsen asked that Item F. be removed for discussion. Council Member Davis seconded the motion to approve the consent agenda, with the removal of Item F., which carried on a roll call vote of Ayes 8, Noes 0.

Council Member Nelsen asked about the statement "pending policy department approval" on the liquor license renewals. Police Chief Felt stated his department hadn't completed their process at the time the packet needed to be printed. Council Member Nelsen then offered a motion to approve Item F. Council Member Fagerlie seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

The following individuals addressed the Mayor and Council during the Open Forum to offer their support for the City Hall/Community Center to be located at the former J.C. Penney site at the Uptown Mall: Ron Mackedanz, David Frey, Diana Frey, Ken Newberg, Jo deBruycker, Andy Wiener, Dion Warne, Ken Behm, Bob Poe, Karen Hernandez, Dan Drevlow, and Sheila Bass.

Human Resources Director Sietsema presented a request to approve the updated Personnel Policy Handbook and referenced policy changes for the first section of two as presented.

Following discussion, Council Member Fagerlie offered a motion to approve staff's request. Council Member Butterfield seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

Public Works Director Manzer presented a request to approve the professional services agreement with Bolton and Menk, Inc. for design and construction related services for the replacement of Eagle Lake Lift Stations No. 7 and 8, and repairs to No. 9 in the amount of \$243,800.

Following discussion, **Resolution No. 2023-049 Awarding the Engineering Professional Services: Eagle Lake Lift Stations No. 7, 8, and 9 to Bolton and Menk, Inc. in the Amount of \$243,800** was introduced by Council Member Fagerlie. Council Member Ask seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

City Administrator Valiant presented a request to approve a site location for a combined City Hall and Community Center.

Following a lengthy discussion, Council Member Ask offered a motion to table the decision until June 5th to allow for current costs for the J.C. Penney site to be presented. Council Member Shuldes seconded the motion.

Council Member Butterfield offered a friendly amendment to change the date to May 15th for the current costs to be presented to Council. The motion then carried on a roll call vote of Ayes 8, Noes 0.

Following further discussion, Council Member Davis offered a motion to hire a structural engineer to view the J.C. Penney site and present findings to the Council. Council Member Ask seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

Following additional discussion, Council Member Fagerlie offered a motion to direct staff to view the Restore Building, formerly Goodwill, for an option for the Community Center location. Council Member Nelsen seconded the motion, which failed on a roll call vote of Ayes 3, Noes 5. Council Members Ask, Davis, Shuldes, O'Brien, and Asmus voted "no".

At 8:01 p.m. Council Member O'Brien left the meeting.

Planning and Development Services Director Walker presented a request to appoint Lewis Young Robertson & Burningham, Inc. (LYRB) as the municipal advisor for the Hometown Fiber Project financing.

Following discussion, **Resolution No. 2023-050 Approving Lewis, Young, Robertson, and Burningham as the Municipal Advisor for Bonding & Contracting Throughout the Hometown Fiber Project** was introduced by Council Member Ask. Council Member Nelsen seconded the motion, which carried on a roll call vote of Ayes 6, Noes 1. Council Member Fagerlie voted "no."

Planning and Development Services Director Walker presented a request to approve Hometown Fiber as the City's technical broadband consultant and representative.

Following discussion, **Resolution No. 2023-051 A Resolution to Execute a Contract for Professional Services with Hometown Fiber for Technical Broadband Consulting and Representation for \$29,900** was introduced by Council Member Nelsen. Council Member Davis seconded the motion, which carried on a roll call vote of Ayes 6, Noes 1. Council Member Fagerlie voted "no".

RESOLUTION NO. 2023-045

A RESOLUTION APPROVING A THREE-YEAR ADVERTISING AGREEMENT WITH THE WILLMAR BASEBALL ASSOCIATION FOR ADVERTISING RIGHTS AT THE SWANSSON FIELD BASEBALL/SOFTBALL COMPLEX

Motion By: Ask Second By: Davis

BE IT RESOLVED by the City Council of the City of Willmar, a Municipal Corporation of the State of Minnesota, that the Mayor and City Administrator of the City of Willmar is hereby authorized to approve a 3-year agreement with the Willmar Baseball Association for advertising rights at the Swansson Field Baseball/Softball Complex.

Dated this 20th day of March 2023

/s/ Douglas Reese
MAYOR

ATTEST:

/s/ Judy Thompson
CITY CLERK

RESOLUTION NO. 2023-046

A RESOLUTION APPROVING A ONE-YEAR ADVERTISING AGREEMENT WITH THE WILLMAR SOFTBALL ASSOCIATION FOR ADVERTISING RIGHTS AT THE CIVC CENTER BASEBALL/SOFTBALL COMPLEX

Motion By: Ask Second By: Davis

BE IT RESOLVED by the City Council of the City of Willmar, a Municipal Corporation of the State of Minnesota, that the Mayor and City Administrator of the City of Willmar are hereby authorized to approve a 1-year agreement with the Willmar Softball Association for advertising right at the Willmar Civic Center Baseball/Softball Complex.

Dated this 20th Day of March, 2023

/s/ Douglas Reese
MAYOR

ATTEST:

/s/ Judy Thompson
CITY CLERK

RESOLUTION NO. 2023-047

RESOLUTION APPROVING STATE OF MINNESOTA JOINT POWERS AGREEMENTS WITH THE CITY OF WILLMAR ON BEHALF OF ITS CITY PROSECUTOR AND POLICE DEPARTMENT

Motion By: Ask Second By: Davis

WHEREAS, the City of Willmar on behalf of its Prosecuting Attorney and Police Department desires to enter into Joint Powers Agreements with the State of Minnesota, Department of Public Safety, Bureau of Criminal Apprehension to use systems and tools available over the State’s criminal justice data communications network for which the City is eligible. The Joint Powers Agreements further provide the City with the ability to add, modify and delete connectivity, systems and tools over the five year life of the agreement and obligates the City to pay the costs for the network connection.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Willmar, Minnesota as follows:

1. That the State of Minnesota Joint Powers Agreements by and between the State of Minnesota acting through its Department of Public Safety, Bureau of Criminal Apprehension and the City of Willmar on behalf of its Prosecuting Attorney and Police Department, are hereby approved.
2. That the Willmar Chief of Police-James Felt or his successor, is designated the Authorized Representative for the Police Department. The Authorized Representative is also authorized to sign any subsequent amendment or agreement that may be required by the State of Minnesota to maintain the City’s connection to the systems and tools offered by the State.
3. That the City Prosecutor, Thomas M. Anderson, or his or her successor, is designated the Authorized Representative for the Prosecuting Attorney. The Authorized Representative is also authorized to sign any subsequent amendment or agreement that may be required by the State of Minnesota to maintain the City’s connection to the systems and tools offered by the State.
4. That Doug Reese, the Mayor for the City of Willmar, and Leslie Valiant, the City Administrator, are authorized to sign the State of Minnesota Joint Powers Agreements.

Passed and Adopted by the Council on this 20th day of March, 2023

CITY OF WILLMAR

/s/ Douglas Reese
By: Doug Reese
Its Mayor

ATTEST:

/s/ Leslie Valiant
By: Leslie Valiant
Its City Administrator

**CITY OF WILLMAR
RESOLUTION NO. 2023-048**

**FINDINGS, CONCLUSIONS AND ORDER OF WILLMAR CITY COUNCIL ON HEARING REGARDING
WILLMAR POLICE DEPARTMENT’S DECEMBER 12, 2022 POTENTIALLY DANGEROUS DOG
DECLARATION**

Motion By: Ask Second By: Davis

WHEREAS, the Applicant, Susan Elaine Berge, requested a hearing before the City of Willmar City Council pursuant to City of Willmar Ordinance #4-64 seeking review of a potentially dangerous dog declaration notice the City's Police Department issued to her on December 12, 2022, with respect to a German Shepherd named Paisley owned by Applicant for an incident that occurred on November 29, 2022, and

WHEREAS, the City of Willmar Ordinances regulating potentially dangerous animals are substantively consistent with Minnesota Statute Section 347.50, *et seq.*

WHEREAS, Applicant is the owner of Paisley pursuant to City of Willmar Ordinance #4-56, which defines "owner" as "any person . . . possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog."

WHEREAS, City of Willmar Ordinance #4-57(a) defines a "potentially dangerous animal" as any dog that:

- (1) When unprovoked, bitten a human or a domestic animal on public or private property;
- (2) When unprovoked, chased or approached a person upon the streets, sidewalks, or any public or private property, other than the animal owner's property, in an apparent attitude of attack; or
- (3) A known history or propensity, tendency or disposition to attack while unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

WHEREAS, for the purposes of the above statutory definitions of dangerous and potentially dangerous animals, "provocation" means "an act that an adult could reasonably expect may cause an animal to attack or bite." City of Willmar Ordinance #4-56; and

WHEREAS, pursuant to Minn. Stat. § 347.565, the State of Minnesota's dangerous dog laws must be enforced by the City's animal control authority; and

WHEREAS, the animal control authority for the City of Willmar is the Willmar Police Department pursuant to City of Willmar Ordinance #4-55(b); and

WHEREAS, Applicant submitted a written request for a hearing on the City's December 12, 2022 potentially dangerous dog declaration which was received by the City on January 4, 2023; and

WHEREAS, all required notices that the requested hearing to review the City's December 12, 2022 potentially dangerous dog declaration would be conducted in a meeting of the City Council to be held on March 6, 2023 at 6:30 p.m. at the Board Room of the Kandiyohi County Health and Human Services Building were duly made to Paisley's owner by the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WILLMAR, MINNESOTA, that based upon the record, testimony and evidence presented at said hearing, the City Council makes the following:

FINDINGS

1. Applicant Susan Elaine Berge resides at 605 2nd St. SW, Willmar, Minnesota, and has an ownership interested in Paisley, an adult female German Shepherd dog born February 12, 2018.
2. On November 29, 2022, Paisley, when unprovoked, approached Sandra Marie Tersch, a 67-year-old Willmar resident, while Ms. Tersch was on a public sidewalk in Willmar, in an apparent attitude of attack.

3. During the encounter, Paisley inflicted a bite on Ms. Tersch's arm and thumb. The bite inflicted by Paisley on Ms. Tersch's thumb resulted in bruising and a trip later in the evening to the local hospital from which she gave her statement to the Willmar Police Department. Ms. Tersch's statement to the Willmar Police Department claims that Paisley dragged her to the ground, causing soreness to her ribs. A photograph of Ms. Tersch's thumb was provided for consideration.
4. In a notice and declaration dated December 12, 2022, Sergeant Chad Oakleaf of the Willmar Police Department informed the applicant, Susan Berge, that the City considered Paisley to be potentially dangerous, and that failure to comply with the Potentially Dangerous Dog requirements could result in the impoundment of Paisley and/or criminal charges.
5. The December 12, 2022 notice and declaration provided Susan Berge with the opportunity to request a hearing before the City Council to appeal the City's determination by January 5, 2023.¹
6. Sergeant Chad Oakleaf served Susan Berge with the Police Department's Potentially Dangers Dog Determination Review on December 15, 2022.
7. As of December 15, 2022, Applicant Susan Berge was in compliance with all Potentially Dangerous Dog requirements.
8. Susan Berge submitted a letter of appeal to the Willmar Police Department on January 4, 2023.
9. The public hearing for the appeal was previously scheduled to be heard on February 21, 2023, but the public hearing was reconvened on March 6, 2023 to consider the appeal.
10. In response to Applicant's request for a hearing, the City Council conducted a hearing on March 6, 2023 and received public testimony regarding the potentially dangerous dog declaration from Paisley's owner and Applicant, Susan Berge, Chief of Police Jim Felt, and two witnesses of Paisley's behavior specified in findings 2-3. Chief of Police Jim Felt relied upon Ms. Tersch's previous statements and the facts contained in the notice declaring Paisley a potentially dangerous dog in lieu of requesting Ms. Tersch provide public testimony.
11. All required notices regarding the March 6, 2023 City Council hearing to review the City's December 12, 2022 potentially dangerous dog declarations were properly made by the City.
12. The individuals who testified at the March 6, 2023 hearing are shown on Exhibit A, which is attached hereto and incorporated herein by reference.
13. Testimony from Applicant established that after Paisley was able to escape the secured area of Applicant's property, Paisley approached and barked at Ms. Tersch while Ms. Tersch was on the public sidewalk.
14. Testimony from Applicant and two witnesses appearing on behalf of Applicant disputed the claim that Paisley bit Ms. Tersch without provocation. Each witness provided testimony that Ms. Tersch immediately kicked toward Paisley and swung her backpack at Paisley after Paisley approached and barked at her on the sidewalk. According to Applicant and witnesses, the actions of Ms. Tersch may have provoked an unintentional bite from Paisley.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF WILLMAR, MINNESOTA, that based upon the record, testimony, and evidence presented at said hearing and the above findings, the City Council makes the following:

¹ The notice and declaration contained a typo providing a deadline of "January 5, 2022" for the letter of appeal or compliance with the requirements.

CONCLUSIONS AND ORDER

1. Pursuant to City of Willmar Ordinance #4-57(a), a determination that Paisley is a potentially dangerous animal will be affirmed if **one or more** of the following criteria has been established:
 - 1) When unprovoked, Paisley has bitten a human or a domestic animal on public or private property;
 - 2) When unprovoked, Paisley has chased or approached a person upon the streets, sidewalks, or any public or private property, other than the animal owner's property, in an apparent attitude of attack; or
 - 3) Paisley has a known history or propensity, tendency or disposition to attack while unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.
2. That Paisley, having approached a person, unprovoked, upon the public sidewalk in an apparent attitude of attack, is a potentially dangerous dog as defined by Minn. Stat. § 347.50, subd. 3(2) and Willmar City Code 4-57(a)(2).
3. That the City Police Department's December 12, 2022 declaration with respect to Paisley is hereby **AFFIRMED** in its entirety.
4. That Paisley's owners shall fully comply with the registration requirements for a potentially dangerous dog contained in Willmar City Code Section 4-57(b), and that Paisley's owner's failure to do so could result in seizure and impoundment of Paisley pursuant to Willmar City Code 4-57(d).

Adopted on March 20, 2023, by the City Council of the City of Willmar.

/s/ Douglas Reese
Doug Reese, Mayor

ATTEST:

/s/ Judy Thompson
Judy Thompson, City Clerk

Exhibit A

List of Individuals Testifying at the March 6, 2023 Hearing

1. Chief of Police Jim Felt
2. Applicant Susan Berge
3. Witness Stephen Stewart
4. Witness John Landon

RESOLUTION NO. 2023-049

A RESOLUTION AWARDING THE ENGINEERING PROFESSIONAL SERVICES: EAGLE LAKE LIFT STATIONS NO. 7, 8 & 9 TO BOLTON AND MENK, INC. IN THE AMOUNT OF \$243,800.

Motion By: Fagerlie Second By: Ask

BE IT RESOLVED by the City Council of the City of Willmar, a Municipal Corporation of the State of Minnesota, that the bid of Bolton and Menk, Inc. of Willmar, MN for the professional services of the replacement of Eagle Lake Lift Stations No. 7 & 8, and the repair of Eagle Lake Lift Station No. 9 projects is accepted, and be it further resolved that the Mayor and City Administrator of the City of Willmar are hereby authorized to enter into an agreement with the bidder for the terms and consideration of the contract in the amount of \$243,800.

Dated this 20th day of March, 2023

/s/ Douglas Reese
Mayor

Attest:

/s/ Judy Thompson
City Clerk

RESOLUTION NO. 2023-050

A RESOLUTION APPROVING LEWIS, YOUNG, ROBERTSON, AND BURNINGHAM AS THE MUNICIPAL ADVISOR FOR BONDING & CONTRACTING THROUGHOUT THE HOMETOWN FIBER PROJECT.

Motion By: Ask Second By: Nelsen

BE IT RESOLVED by the City Council of the City of Willmar, a Municipal Corporation of the State of Minnesota, that Lewis, Young, Robertson, and Burningham will serve as the municipal advisor for bonding & contracting throughout the Hometown Fiber project and has been approved, and be it further resolved that the Mayor and City Administrator of the City of Willmar are hereby authorized to execute a version thereof.

Dated this 20th day of March, 2023

/s/ Douglas Reese
MAYOR

Attest:

/s/ Judy Thompson
CITY CLERK

RESOLUTION NO. 2023-051

A RESOLUTION TO EXECUTE A CONTRACT FOR PROFESSIONAL SERVICES WITH HOMETOWN FIBER FOR TECHNICAL BROADBAND CONSULTING AND REPRESENTATION FOR \$29,990.

Motion By: Nelsen Second By: Davis

BE IT RESOLVED by the City Council of the City of Willmar, a Municipal Corporation of the State of Minnesota, to execute a contract for professional services with Hometown Fiber for technical broadband consulting and representation for \$29,990, and be it further resolved that the Mayor and City Administrator of the City of Willmar are hereby authorized to execute a version thereof.

Dated this 20th day of March, 2023

/s/ Douglas Reese
Mayor

Attest:

/s/ Judy Thompson
City Clerk

RESOLUTION NO. 2023-052

A RESOLUTION THAT THE CITY OF WILLMAR WILL ACCEPT FUNDS FOR SMAC ART-PROJECT GRANT FOR WILLMAR MAIN STREET.

Motion By: Fagerlie Second By: Davis

BE IT RESOLVED by the City Council of the City of Willmar, a Municipal Corporation of the State of Minnesota, that the City of Willmar will accept funds for SMAC Art-Project grant for Wilmar Main Street should it be awarded, and be it further resolved that the Mayor and City Administrator of the City of Willmar are hereby authorized to execute a version thereof.

Dated this 20th day of March, 2023

/s/ Douglas Reese
Mayor

Attest:

/s/ Judy Thompson
City Clerk

RESOLUTION NO. 2023-053

A RESOLUTION THAT THE CITY OF WILLMAR WILL ACCEPT FUNDS FOR UNITED WAY COMMUNITY FOCUS GRANT FOR WILMAR MAIN STREET.

Motion By: Fagerlie Second By: Davis

BE IT RESOLVED by the City Council of the City of Willmar, a Municipal Corporation of the State of Minnesota, that the City of Willmar will accept funds for United Way-Community Focus grant for Wilmar Main Street should it be awarded, and be it further resolved that the Mayor and City Administrator of the City of Willmar are hereby authorized to execute a version thereof.

Dated this 20th day of March, 2023

/s/ Douglas Reese
Mayor

Attest:

/s/ Judy Thompson
City Clerk

RESOLUTION NO. 2023-054

A RESOLUTION THAT THE CITY OF WILLMAR WILL ACCEPT FUNDS FOR VISION 2040 GENERAL FUNDING GRANT FOR WILMAR MAIN STREET.

Motion By: Shuldes Second By: Davis

BE IT RESOLVED by the City Council of the City of Willmar, a Municipal Corporation of the State of Minnesota, that the City of Willmar will accept funds for Vision 2040 General Funding grant for Wilmar Main Street should it be awarded, and be it further resolved that the Mayor and City Administrator of the City of Willmar are hereby authorized to execute a version thereof.

Dated this 20th day of March, 2023

/s/ Douglas Reese
Mayor

Attest:

/s/ Judy Thompson
City Clerk

RESOLUTION NO. 2023-055

A RESOLUTION THAT THE CITY OF WILLMAR WILL ACCEPT FUNDS FOR USDA FARMER'S MARKET PROMOTION PROGRAM FOR WILMAR MAIN STREET.

Motion By: Fagerlie Second By: Shuldes

BE IT RESOLVED by the City Council of the City of Willmar, a Municipal Corporation of the State of Minnesota, that the City of Willmar will accepts funds for USDA Farmer's Market Promotion Program grant for Wilmar Main Street should it be awarded, and be it further resolved that the Mayor and City Administrator of the City of Willmar are hereby authorized to execute a version thereof.

Dated this 20th day of March, 2023

/s/ Douglas Reese
Mayor

Attest:

/s/ Judy Thompson
City Clerk

RESOLUTION NO. 2023-056

A RESOLUTION THAT THE CITY OF WILLMAR WILL PURCHASE THE E HOWARD PLUS CLOCK FOR \$13,205 FROM LUMICHRON COMMERCIAL CLOCKS.

Motion By: Shuldes Second By: Nelsen

BE IT RESOLVED by the City Council of the City of Willmar, a Municipal Corporation of the State of Minnesota, to purchase the E Howard Plus Clock for \$13,205 from Lumichron Commercial Clocks for the downtown streetscape plan, and be it further resolved that the Mayor and City Administrator of the City of Willmar are hereby authorized to execute a version thereof.

Dated this 20th day of March, 2023

/s/ Douglas Reese
Mayor

Attest:

/s/ Judy Thompson
City Clerk